

**MINUTES OF
FAUQUIER COUNTY BOARD OF ZONING APPEALS**

July 1, 1999

The Fauquier County Board of Zoning Appeals held its regularly scheduled meeting on Thursday, July 1, 1999, at 2:00 P.M. in the Meeting Room of the Warren Green Building, 10 Hotel Street, Warrenton, Virginia. Members present were Ms. Barbara Wilson, Secretary; William Barr, Vice Chairman; Mrs. Peg Mailler, Mr Eugene Lofdahl, and Mr. John Meadows. Also present were Mrs. Carolyn G. Bowen, Zoning Administrator; Mr. Kevin Burke, Deputy County Attorney; Mr. Don Margraf, Assistant Zoning Administrator, and Mrs. Beverly Pullen, Zoning Office Technician. Members absent were Mr. William Rider and Dr. James Branscome.

MINUTES

On the motion made by Mr. Lofdahl, and seconded by Mr. Meadows, it was moved to approve the minutes of the June 10, 1999 hearing as submitted.

LETTERS OF NOTIFICATIONS

PUBLIC NOTICE Mrs. Bowen stated that to the best of her knowledge, the cases before the Board of Zoning Appeals for a public hearing have been properly advertised, posted, and letters of notification sent to adjoining property owners.

OTHER MATTERS

Mrs. Bowen stated that item #5 on the agenda for today, #44357 Lake Whippoorwill L.L.C./Greater New Life Ministries, has been postponed until the August 5, 1999 meeting. She further stated that notices to adjoining property owners had been mailed informing them of the postponement.

VARIANCE #44283

JOHN W. AND ARVILLENE R. BOWDEN

Applicants are requesting a variance of six (6') feet for a brick shed, located forty-four (44') from a side yard, wherein the Zoning Ordinance requires fifty (50') feet. The shed was constructed in 1977. The subject property is located at 8406 Falcon Glen Road (private) off of Cannonball Gate Road (State Route 628), and is zoned RC (Rural Conservation) and RA (Rural Agriculture), and is identified as PIN #6965-69-7597, containing 10.009 acres, in Marshall District.

Mr. Margraf reviewed the staff report. He stated that a site visit was conducted earlier today. He also stated that the shed is located in the RC (Rural Conservation) zoning area on the property. He indicated that the property does vary in elevation and does not have an unusual shape.

Mr. John Bowden was present on behalf of this request. He stated that the home was built in 1977, with left over materials, the shed was built and located in error, six feet too close to the property line. He explained that when he measured for the shed, he measured incorrectly to the side property line.

Mr. Lofdahl inquired as to the conditions that resulted in the incorrect measurement.

Mr. Bowden stated that he did not take into consideration the swell of the land.

Mr. Meadows asked if both corners of the shed are within the (50') fifty foot setback.

Mr. Bowden stated that they are both within the required setback area.

Mr. Barr asked if anyone wished to speak regarding this request.

No one spoke.

On the motion made by Ms. Wilson, and seconded by Mrs. Mailler, it was moved to grant Variance #44283, based on the Board's findings, after due notice and hearing, as provided by §15.2-2204 of the Code of Virginia:

1. The property was acquired in good faith; and
2. Strict application of the Ordinance would effectively prohibit or unreasonably restrict use of the property because there was an error in measurement when the shed was built.
3. The granting of the variance will alleviate a clearly demonstrable hardship approaching confiscating, and is distinguished from a special privilege or convenience sought by the applicant.
4. The hardship or restrictions on the use of the property are by reason of
 - (a) exceptional topographic conditions or other extraordinary situation or condition of the property;
5. The variance will be in harmony with the intended spirit and purpose of the Ordinance, and would result in substantial justice being done.
6. The strict application of the Ordinance will produce undue hardship.
7. Such hardship is not shared generally by other properties in the same zoning district and the same vicinity and is not of so general or recurring a nature as to make reasonably practical the formation of a general regulation to be adopted as an amendment to the Ordinance.
8. The authorization of the variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance.
9. The minimum variance that is necessary to afford relief is:
Six (6') feet to the side property line.

The motion carried unanimously.

VARIANCE #44332**PETER S. AND MARTHA S. SNYDER**

Applicants are requesting a variance for an existing attached garage. The garage is located nineteen (19') feet from one side yard, and 21.8' feet from the other side yard, wherein the Zoning Ordinance requires twenty-five (25') feet. The subject property is located at 7264 Baldwin Ridge Road (State Route 827) containing 1.082 acres, and is zoned R-1 (Residential) and is identified as PIN #7905-22-5808-000, in Center District.

Mr. Don Margraf reviewed the staff report. He stated that the existing attached garage was constructed and located in error. He also stated that VDOT takes no exception to this request.

Mr. and Mrs. Peter Snyder were present on behalf of this request. Mr. Snyder stated that he built the garage one year after the house was built. He further stated that when he built the garage, he found the survey stake and measured accordingly. Due to the recent sale of the property, the property was re-surveyed, and he discovered that the stake he had used for his measurements was incorrect.

Mr. Barr asked if anyone wished to speak regarding this request.

Mr. Wayne Tympanick, Contract Owner, spoke in support of this request. He stated that he felt the variance would not impact the neighboring properties.

On the motion made by Mr. Lofdahl, and seconded by Mrs. Mailler, it was moved to grant Variance #44332, based on the Board's findings, after due notice and hearing, as provided by §15.2-2204 of the Code of Virginia:

1. The property was acquired in good faith; and
2. Strict application of the Ordinance would effectively prohibit or unreasonably restrict use of the property because of the error in measurement in locating the garage.
3. The granting of the variance will alleviate a clearly demonstrable hardship approaching confiscating, and is distinguished from a special privilege or convenience sought by the applicant.
4. The hardship or restrictions on the use of the property are by reason of: the error in locating the side property line.
5. The variance will be in harmony with the intended spirit and purpose of the Ordinance, and would result in substantial justice being done.
6. The strict application of the Ordinance will produce undue hardship.
7. Such hardship is not shared generally by other properties in the same zoning district and the same vicinity and is not of so general or recurring a nature as to make reasonably practical the formation of a general regulation to be adopted as an amendment to the Ordinance.
8. The authorization of the variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance.
9. The minimum variance that is necessary to afford relief is:
Six (6') feet to the side property line.

The motion carried unanimously.

SPECIAL PERMIT #44285

WALTER E. SMITH (OWNER)

Applicant is requesting special permit approval to locate a single family dwelling on property zoned C-1 (Commercial). The subject property is located at 12735 Brooks Store Drive (State Route 632) near Morrisville, containing 2.00 acres, and is identified as PIN #7816-16-8448-000, in Lee District.

Mr. Margraf reviewed the staff report. He stated that a site visit was conducted. He further stated that the applicant wishes to subdivide the property if the Board of Zoning Appeals will grant special permit approval for a single family dwelling. Mr. Margraf stated that the new dwelling would be subject to use regulations for the R-4 (Residential) Zoning District. He further stated that access to the property would be derived from Brooks Store Road according to Virginia Department of Transportation.

Mr. Walter Smith was present on behalf of this request. He stated that VDOT has no objection to issuing a highway entrance permit for the new dwelling. Mr. Smith stated that he has contacted the Fauquier County Health Department regarding testing for a well and septic permit.

Mr. Barr asked if anyone wished to speak regarding this request.

No one spoke.

Mrs. Bowen asked Mr. Smith about the four junk vehicles on the property.

Mr. Smith stated that he does not live in the existing house, but he is in the process of moving the vehicles.

On the motion made by Mr. Meadows, and seconded by Mrs. Mailler, it was moved to grant Special Permit #44285, after due notice and hearing, as required by Code of Virginia §15.2-2204 and Section 5-009 of the Fauquier County Code, based upon the Board's findings:

1. The proposed use will not adversely effect the use or development of neighboring properties.
2. It is in accordance with the applicable zoning district regulations and to applicable provisions of the adopted Comprehensive Plan, and does conform to the general standards set forth in Section 5-006(1) through (9) of the Zoning Ordinance of Fauquier County, which sections are incorporated in this Motion as if fully set forth.
3. The use will be compatible with the neighborhood in which it is to be located.
4. The application does comply with the specific standards which apply to the use in question, namely:

Section 5-103 Standards for All Residential Uses in C-1 and CV District

In addition to the standards set forth in Section 006 above, all residential uses shall satisfy the following standards:

1. While the C-1 and CV Zoning Districts are intended to accommodate a mixture of commercial and residential uses, and to recognize the mixed use character of many village center in the County, residential uses allowed by special permit in such districts shall be of such scale as to avoid conflict with existing and potential commercial uses in the district where located.
2. Such uses shall be subject to use regulations set forth in Part 4 of Article 3 for conventional developments in the zoning districts indicated:

<u>Dwelling Unit Type</u>	<u>Zoning District</u>
Single Family, Detached	R-4
Single Family, Attached	TH
Multi-Family	GA

The motion carried unanimously.

ADJOURNMENT There being no further business before the Board, the meeting adjourned at 3:30 P.M.

William Rider, Chairman

Barbara Wilson, Secretary

Copies of all files and materials presented to the Board are attached to and become a part of these minutes. A tape recording of the meeting is on file for one year.